

1 THE HONORABLE JUSTIN L. QUACKENBUSH  
2

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10 Attorneys for Defendant Federal  
11 National Mortgage Association,  
12 ReconTrust Company, N.A., Mortgage  
13 Electronic Registration Systems, Inc.,  
14 and Bank of America, N.A., as successor  
15 by merger to Countrywide Bank, FSB  
16 and BAC Home Loans Servicing, LP  
17

18 UNITED STATES DISTRICT COURT  
19 EASTERN DISTRICT OF WASHINGTON  
20 AT SPOKANE  
21

22 GREGORY A. BEADLES, )  
23 Plaintiff, ) No. CV-12-378-JLQ  
24 v. )  
25 RECONTRUST COMPANY, N.A., )  
26 MORTGAGE ELECTRONIC )  
27 REGISTRATION SYSTEMS, INC., A )  
Delaware Corp., AMERICAN )  
MORTGAGE NETWORK, INC., A )  
Delaware Corp., COUNTRYWIDE )  
BANK, FSB; DOES 1-10 FEDERAL )  
NATIONAL MORTGAGE )  
ASSOCIATION, )  
Defendants. )  
28

DEFENDANTS' ANSWER TO  
PLAINTIFF'S FIRST  
AMENDED COMPLAINT FOR  
BREACH OF DUTY TO ACT  
AS NEUTRAL THIRD PARTY;  
NEGLIGENT AND/OR  
INTENTIONAL;  
MISREPRESENTATION;  
VIOLATION OF CONSUMER  
PROTECTION ACT

29 Defendants Federal National Mortgage Association ("Fannie Mae"),  
30 ReconTrust Company, N.A. ("ReconTrust"), Mortgage Electronic Registration  
31

32 DEFENDANTS' ANSWER TO PLAINTIFF'S  
33 FIRST AMENDED COMPLAINT  
34 NO. CV-12-378-JLQ - 1

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1 Systems, Inc. (“MERS”), and Bank of America, N.A., successor in interest by  
2 merger to Countrywide Bank, FSB and BAC Home Loans Servicing, LP  
3 (“BACHLS”), (“BANA”) (collectively, “Defendants”) hereby answer the First  
4 Amended Complaint (“Amended Complaint”) of Plaintiff Gregory A. Beadles  
5 (“Plaintiff”). Unless expressly admitted herein, Defendants lack sufficient  
6 information or knowledge to admit or deny the allegations of the Amended  
7 Complaint and, on that basis, deny the allegations.

## PARTIES

9       1. Answering Paragraph 1.1 of the Amended Complaint, Defendants  
10 lack sufficient information to admit or deny the allegations contained therein,  
11 and on that basis, deny the allegations.

12       2. Answering Paragraph 1.2 of the Amended Complaint, Defendants  
13 admit that Plaintiff executed two deeds of trust secured by real property located  
14 in Spokane County, Washington, and that he borrowed funds to purchase the  
15 subject property. As to the remainder of the allegations, Defendants lack  
16 sufficient information to admit or deny the allegations contained therein, and on  
17 that basis, deny the allegations.

18       3. Answering the first Paragraph 1.3 of the Amended Complaint (page  
19 2, lines 4-12), Defendants admit that ReconTrust Company, N.A. is a  
20 wholly-owned subsidiary of BANA, which is a wholly-owned subsidiary of  
21 BANA Holding Corp., which is a wholly-owned subsidiary of BAC North  
22 America Holding Company, which is a wholly-owned subsidiary of NB  
23 Holdings Corp., which is a wholly-owned subsidiary of Bank of America  
24 Corporation. Defendants further admit that ReconTrust was appointed as a  
25 Successor Trustee of a deed of trust secured by the Property referenced in the  
26 Amended Complaint and conducted a non-judicial trustee's sale of the Property

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1 on July 1, 2011. Unless so specifically admitted, the allegations of Paragraph  
 2 1.3 are denied.

3       4. Answering the second Paragraph 1.3 of the Amended Complaint  
 4 (page 2, lines 13-19), Defendants admit that MERS is a Delaware corporation.  
 5 To the extent Paragraph 1.3 refers to a Deed of Trust, that document speaks for  
 6 itself and is the best evidence of its contents. To the extent the allegations  
 7 contained in the second Paragraph 1.3 contradict the document, they are denied.  
 8 As to the remainder of the allegations, the allegations state legal conclusions to  
 9 which no response is required. The remaining portion of second Paragraph 1.3  
 10 contains legal conclusions, which require no response. To the extent a response  
 11 is required, Defendants lack sufficient information to admit or deny the  
 12 allegations contained therein, and on that basis, deny the allegations.

13     5. Answering Paragraph 1.4 of the Amended Complaint, Defendants  
 14 admit that BACHLS was a subsidiary of BANA, which merged into BANA on  
 15 July 1, 2011. Defendants further admit that MERS executed a written  
 16 assignment in favor of BACHLS in 2010, and that written document speaks for  
 17 itself and is the best evidence of its contents. To the extent the allegations  
 18 contained in Paragraph 1.4 contradict the document, they are denied. Unless so  
 19 specifically admitted, the allegations of Paragraph 1.4 are denied.

20     6. Answering the first Paragraph 1.5 of the Amended Complaint (page  
 21 2, line 23 through page 3, line 2), Defendants admit that Plaintiff executed a  
 22 deed of trust on the Property in 2007 (a copy of which is attached to the  
 23 Amended Complaint as Exhibit 2), and borrowed money accordingly. The  
 24 referenced document speaks for itself and is the best evidence of its contents.  
 25 To the extent the allegations contained in Paragraph 1.5 contradict the  
 26 document, they are denied. Defendants further admit that BANA is the  
 27

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1 successor to this Deed of Trust by merger to Countrywide Bank, FSB. As to the  
2 remainder of the allegations, Defendants lack sufficient information to admit or  
3 deny the allegations contained therein, and on that basis, deny the allegations.

4       7.     Answering the first Paragraph 1.6 of the Amended Complaint (page  
5           3, lines 3-15), Defendants admit that Fannie Mae is a federally chartered  
6 corporation organized under the laws of the United States and conducts business  
7 in the state of Washington. Defendants admit that Fannie Mae purchased the  
8 subject mortgage at the July 1, 2011 trustee's sale. The remaining allegations  
9 consist of legal conclusions, and require no answer. To the extent a response is  
0 required, Defendants lack sufficient information to admit or deny the allegations  
1 contained therein as presently phrased, and on that basis, deny the allegations.

12       8. Answering the second Paragraph 1.5 of the Amended Complaint  
13 (page 3, lines 16-20), Defendants lack sufficient information to admit or deny  
14 the allegations contained therein, and on that basis, deny the allegations.

15       9. Answering the second Paragraph 1.6 of the Amended Complaint  
16 (page 3, lines 21-22), Defendants admit the allegations as to the named  
17 Defendants and lack sufficient information to admit or deny the allegations  
18 contained therein as to the Plaintiff and the Doe Defendants, and on that basis,  
19 deny the allegations.

## **JURISDICTION AND VENUE**

21 10. Defendants admit the allegations in Paragraph 2.1 of the Amended  
22 Complaint.

## **ALLEGED FACTS**

24       11. Answering the first Paragraph 3.1 of the Amended Complaint (page  
25 4, lines 4-9), Defendants lack sufficient information to admit or deny the  
26 allegations contained therein, and on that basis, deny the allegations.

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1       12. Answering the first Paragraph 3.2 of the Amended Complaint (page  
2 4, lines 10-16), Defendants admit that on or about August 1, 2006, Plaintiff  
3 executed a promissory note and a deed of trust on the Property which was  
4 recorded under Spokane County recording number 5414465 (a copy of which is  
5 attached to the Amended Complaint as Exhibit 1), and borrowed money  
6 accordingly. Defendants admit that the promissory note and deed of trust are  
7 written documents. The documents are the best evidence of their contents. To  
8 the extent the allegations of Paragraph 3.2 contradict the writing, they are  
9 denied. As to the remainder of the allegations, Defendants lack sufficient  
10 information to admit or deny the allegations contained therein, and on that basis,  
11 deny the allegations.

12      13. Answering the first Paragraph 3.3 of the Amended Complaint (page  
13 4, lines 17-25), Defendants admit that on or about September 10, 2007 Plaintiff  
14 executed a promissory note and a deed of trust on the Property which was  
15 recorded under Spokane County recording number 5585539 (a copy of which is  
16 attached to the Amended Complaint as Exhibit 2), and borrowed money  
17 accordingly. Defendants admit that the promissory note and deed of trust are  
18 written documents. The documents are the best evidence of their contents. To  
19 the extent the allegations contained in Paragraph 3.3 contradict the document,  
20 they are denied. As to the remainder of the allegations, Defendants lack  
21 sufficient information to admit or deny the allegations contained therein, and on  
22 that basis, deny the allegations.

23      14. Answering the first Paragraph 3.4 of the Amended Complaint (page  
24 5, lines 1-10), Defendants admit that Plaintiff communicated with BACHLS  
25 regarding a Home Affordable Modification Program (“HAMP”) application.  
26 Defendants further admit that a Notice of Trustee’s Sale on the Property was  
27

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1 recorded on March 29, 2011, setting a sale date of July 1, 2011. As to the  
 2 remaining allegations, Defendants lack sufficient information to admit or deny  
 3 the allegations contained therein as presently phrased, and on that basis, deny  
 4 the allegations.

5       15. Answering the first Paragraph 3.5 of the Amended Complaint (page  
 6 5, lines 11-15), Defendants admit that Plaintiff communicated with BACHLS  
 7 prior to the Trustee's Sale. As to the remaining allegations, Defendants lack  
 8 sufficient information to admit or deny the allegations contained therein as  
 9 presently phrased, and on that basis, deny the allegations.

10      16. Answering the first Paragraph 3.6 of the Amended Complaint (page  
 11 5, lines 16-20), Defendants admit that the Trustee's sale was not continued and  
 12 that Plaintiff communicated with BACHLS prior to the Trustee's sale. As to the  
 13 remaining allegations, Defendants lack sufficient information to admit or deny  
 14 the allegations contained therein as presently phrased, and on that basis, deny  
 15 the allegations.

16      17. Answering the first Paragraph 3.7 of the Amended Complaint (page  
 17 5, line 21 through page 6, line 6), Defendants admit that the Trustee's sale was  
 18 held on July 1, 2011 and that Plaintiff communicated with BACHLS following  
 19 the Trustee's sale. As to the remaining allegations, Defendants lack sufficient  
 20 information to admit or deny the allegations contained therein as presently  
 21 phrased, and on that basis, deny the allegations.

22      18. Answering the first Paragraph 3.8 of the Amended Complaint (page  
 23 6, lines 7-9), Defendants admit BACHLS executed and recorded under Spokane  
 24 County recording number 5963661 a Substitution of Trustee on December 22,  
 25 2012 (a copy of which is attached to the Amended Complaint as Exhibit 3).  
 26 Defendants admit that the Substitution of Trustee is a written document. The  
 27

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1 document itself is the best evidence of its contents. To the extent the allegations  
 2 of Paragraph 3.8 contradict the document, they are denied.

3       19. Answering the second Paragraph 3.1 of the Amended Complaint  
 4 (page 6, lines 10-13), Defendants admit MERS executed and recorded under  
 5 Spokane County recording number 5963662 an Assignment of the deed of trust  
 6 on December 22, 2010 (a copy of which is attached to the Amended Complaint  
 7 as Exhibit 4). Defendants admit that the Assignment is a written document. The  
 8 document itself is the best evidence of its contents. To the extent the allegations  
 9 of Paragraph 3.1 contradict the writing, they are denied.

10      20. Answering the second Paragraph 3.2 of the Amended Complaint  
 11 (page 6, lines 14-16), Defendants admit ReconTrust recorded under Spokane  
 12 County recording number 5989383 a Notice of Trustee Sale of the Property set  
 13 for July 1, 2011 (a copy of which is attached to the Amended Complaint as  
 14 Exhibit 5). Defendants admit that the Notice of Trustee's Sale is a written  
 15 document. The document itself is the best evidence of its contents. To the extent  
 16 the allegations of Paragraph 3.2 contradict the writing, they are denied.

17      21. Answering the second Paragraph 3.3 of the Amended Complaint  
 18 (page 6, lines 17-19), Defendants admit ReconTrust conducted a non-judicial  
 19 Trustee Sale of the Property on July 1, 2011 and that Fannie Mae purchased the  
 20 property at the July 1, 2011 sale. Defendants further state that ReconTrust was  
 21 fully authorized to conduct the sale and did so in complete and/or substantial  
 22 compliance with all applicable laws. Except as so admitted, the allegations are  
 23 denied.

24      22. Answering the second Paragraph 3.4 of the Amended Complaint  
 25 (page 6, lines 20-24), Defendants admit BACHLS recorded an Assignment of  
 26 the Deed of Trust on July 19, 2011 under Spokane County recording number  
 27

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1 6014333 (a copy of which is attached to the Amended Complaint as Exhibit 6).  
 2 Defendants admit that the Assignment is a written document. The document  
 3 itself is the best evidence of its contents. To the extent the allegations of  
 4 Paragraph 3.4 contradict the writing, they are denied. Except as so admitted, the  
 5 allegations are denied.

6       23. Answering the second Paragraph 3.5 of the Amended Complaint  
 7 (page 7, lines 1-3), Defendants admit ReconTrust recorded a Trustee's Deed  
 8 conveying the Property from BACHLS to Fannie Mae on July 19, 2011 under  
 9 Spokane County recording number 6014334 (a copy of which is attached to the  
 10 Amended Complaint as Exhibit 7). Defendants admit that the Trustee's Deed is  
 11 a written document. The document itself is the best evidence of its contents. To  
 12 the extent the allegations of Paragraph 3.5 contradict the writing, they are  
 13 denied.

14       24. Answering the second Paragraph 3.6 of the Amended Complaint  
 15 (page 7, lines 4-8), Defendants admit that the Trustee's Deed is a written  
 16 document. The document itself is the best evidence of its contents. To the  
 17 extent the allegations of Paragraph 3.6 contradict the writing, they are denied.

18       25. Answering the second Paragraph 3.7 of the Amended Complaint  
 19 (page 7, lines 9-10), Paragraph 3.7 refers to a written document, a Trustee's  
 20 Deed. The document itself is the best evidence of its contents. To the extent  
 21 the allegations contained in Paragraph 3.7 contradict the writing, they are  
 22 denied. As to the remaining allegations, Defendants lack sufficient information  
 23 to admit or deny the allegations contained therein as presently phrased, and on  
 24 that basis, deny the allegations.

25       26. Answering the second Paragraph 3.8 of the Amended Complaint  
 26 (page 7, lines 11-14), Paragraph 3.8 refers to a written document. The document  
 27

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1 itself is the best evidence of its contents. To the extent the allegations in  
 2 Paragraph 3.8 contradict the writing, they are denied. As to the remaining  
 3 allegations, Defendants lack sufficient information to admit or deny the  
 4 allegations contained therein as presently phrased, and on that basis, deny the  
 5 allegations.

6       27. Answering Paragraph 3.9 of the Amended Complaint, the  
 7 allegations state conclusions of law to which no response is required. To the  
 8 extent a response is required, the allegations in Paragraph 3.9 are denied.

9       28. Answering Paragraph 3.9.1 of the Amended Complaint, the  
 10 referenced document is the best evidence of its contents. To the extent the  
 11 allegations in Paragraph 3.9.1 contradict the writing, they are denied. As to the  
 12 remaining allegations, the allegations state conclusions of law to which no  
 13 response is required. To the extent a response is required, the allegations in  
 14 Paragraph 3.9.1 are denied.

15       29. Answering Paragraph 3.9.2 of the Amended Complaint, the  
 16 allegations state conclusions of law to which no response is required. To the  
 17 extent a response is required, the allegations in Paragraph 3.9.2 are denied.

18       30. Answering Paragraph 3.9.3 of the Amended Complaint, the  
 19 allegations state conclusions of law to which no response is required. To the  
 20 extent a response is required, the allegations in Paragraph 3.9.3 are denied.

21       31. Answering Paragraph 3.10 of the Amended Complaint, the  
 22 allegations state conclusions of law to which no response is required. To the  
 23 extent a response is required, the allegations in Paragraph 3.10 are denied.

24       32. Answering Paragraph 3.11 of the Amended Complaint, the  
 25 allegations state conclusions of law to which no response is required. To the  
 26 extent a response is required, the allegations in Paragraph 3.11 are denied.  
 27

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1       33. Answering Paragraph 3.12 of the Amended Complaint, the  
 2 allegations state conclusions of law to which no response is required. To the  
 3 extent a response is required, Defendants admit that ReconTrust owed statutory  
 4 duties, but the allegations in Paragraph 3.12 are otherwise denied.

5       34. Answering Paragraph 3.13 of the Amended Complaint, Defendants  
 6 deny the allegations contained therein.

7       35. Answering Paragraph 3.14 of the Amended Complaint, Defendants  
 8 lack sufficient information to admit or deny the allegations contained therein as  
 9 presently phrased, and on that basis, deny the allegations. As to the remaining  
 10 allegations, the allegations state conclusions of law to which no response is  
 11 required. To the extent a response is required, the allegations in Paragraph 3.14  
 12 are denied

13       36. Answering Paragraph 3.15 of the Amended Complaint, Defendants  
 14 deny the allegations contained therein.

15       37. Answering Paragraph 3.15.1 of the Amended Complaint, the  
 16 allegations state conclusions of law to which no response is required. To the  
 17 extent a response is required, the allegations in Paragraph 3.15.1 are denied.

18       38. Answering Paragraph 3.15.2 of the Amended Complaint, Paragraph  
 19 3.15.2 refers to a written document, a Notice of Default. That document itself is  
 20 the best evidence of its contents. To the extent the allegations contained in  
 21 Paragraph 3.15.2 contradict the writing, they are denied. As to the remainder of  
 22 the allegations, the allegations state conclusions of law to which no response is  
 23 required. To the extent a response is required, the allegations in Paragraph  
 24 3.15.2 are denied.

25       39. Answering Paragraph 3.15.3 of the Amended Complaint, Paragraph  
 26 3.15.3 refers to written documents. Those documents are the best evidence of

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1 their contents. To the extent the allegations contained in Paragraph 3.15.3  
2 contradict the writings, they are denied. As to the remainder of the allegations,  
3 the allegations state conclusions of law to which no response is required. To the  
4 extent a response is required, the allegations in Paragraph 3.15.3 are denied.

5       40. Answering Paragraph 3.15.4 of the Amended Complaint, Paragraph  
6 3.15.4 refers to a written document, a Notice of Trustee's Sale. The document  
7 itself is the best evidence of its contents. To the extent the allegations contained  
8 in Paragraph 3.15.4 contradict the writing, they are denied. As to the remainder  
9 of the allegations, the allegations state conclusions of law to which no response  
10 is required. To the extent a response is required, the allegations in Paragraph  
11 3.15.4 are denied.

12       41. Answering Paragraph 3.15.5 of the Amended Complaint, Paragraph  
13 3.15.5 refers to written documents. Those documents are the best evidence of  
14 their contents. To the extent the allegations contained in Paragraph 3.15.5  
15 contradict the writings, they are denied. As to the remainder of the allegations,  
16 the allegations state conclusions of law to which no response is required. To the  
17 extent a response is required, the allegations in Paragraph 3.15.5 are denied.

18       42. Answering Paragraph 3.15.6 of the Amended Complaint, the  
19 allegations state conclusions of law to which no response is required. To the  
20 extent a response is required, the allegations in Paragraph 3.15.6 are denied.

21       43. Answering Paragraph 3.16 of the Amended Complaint, Defendants  
22 deny the allegations contained therein.

23       44. Answering Paragraph 3.17 of the Amended Complaint, Defendants  
24 deny the allegations contained therein.

25       45. Answering Paragraph 3.18 of the Amended Complaint, Defendants  
26 deny the allegations contained therein.

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1       46. Answering Paragraph 3.18.1 of the Amended Complaint, the  
2 allegations state conclusions of law to which no response is required. To the  
3 extent a response is required, the allegations in Paragraph 3.18.1 are denied.

4       47. Answering Paragraph 3.18.2 of the Amended Complaint, Paragraph  
5 3.18.2 refers to a written document, a Notice of Default. That document itself is  
6 the best evidence of its contents. To the extent the allegations contained in  
7 Paragraph 3.18.2 contradict the writing, they are denied. As to the remainder of  
8 the allegations, the allegations state conclusions of law to which no response is  
9 required. To the extent a response is required, the allegations in Paragraph  
10 3.18.2 are denied.

11      48. Answering Paragraph 3.18.3 of the Amended Complaint, Paragraph  
12 3.18.3 refers to a written document. The document itself is the best evidence of  
13 its contents. To the extent the allegations contained in Paragraph 3.18.3  
14 contradict the writing, they are denied. As to the remainder of the allegations,  
15 the allegations state conclusions of law to which no response is required. To the  
16 extent a response is required, the allegations in Paragraph 3.18.3 are denied.

17      49. Answering Paragraph 3.18.4 of the Amended Complaint, Paragraph  
18 3.18.4 refers to a written document, a Notice of Trustee's Sale. The document  
19 itself is the best evidence of its contents. To the extent the allegations contained  
20 in Paragraph 3.18.4 contradict the writing, they are denied. As to the remainder  
21 of the allegations, the allegations state conclusions of law to which no response  
22 is required. To the extent a response is required, the allegations in Paragraph  
23 3.18.4 are denied.

24      50. Answering Paragraph 3.18.5 of the Amended Complaint, Paragraph  
25 3.18.5 refers to a written document, a Trustee's Deed. That document itself is  
26 the best evidence of its contents. To the extent the allegations contained in  
27

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1 Paragraph 3.18.5 contradict the writing, they are denied. As to the remainder of  
 2 the allegations, the allegations state conclusions of law to which no response is  
 3 required. To the extent a response is required, the allegations in Paragraph  
 4 3.18.5 are denied.

5       51. Answering Paragraph 3.18.6 of the Amended Complaint, Paragraph  
 6 3.18.6 refers to a written document, a Trustee's Deed. That document itself is  
 7 the best evidence of its contents. To the extent the allegations contained in  
 8 Paragraph 3.18.6 contradict the writing, they are denied. As to the remainder of  
 9 the allegations, the allegations state conclusions of law to which no response is  
 10 required. To the extent a response is required, the allegations in Paragraph  
 11 3.18.6 are denied.

12       52. Answering Paragraph 3.19 of the Amended Complaint, the  
 13 allegations state conclusions of law to which no response is required. To the  
 14 extent a response is required, the allegations in Paragraph 3.19 are denied.

15       53. Answering Paragraph 3.20 of the Amended Complaint, the  
 16 allegations state conclusions of law to which no response is required. To the  
 17 extent a response is required, the allegations in Paragraph 3.20 are denied.

18       54. Answering Paragraph 3.21 of the Amended Complaint, Paragraph  
 19 3.21 refers to a written document, a Trustee's Deed. The document itself is the  
 20 best evidence of its contents. To the extent the allegations contained in  
 21 Paragraph 3.21 contradict the writing, they are denied. As to the remainder of  
 22 the allegations, the allegations state legal conclusions to which no response is  
 23 required. To the extent a response is required, the allegations in Paragraph 3.21  
 24 are denied.

25       55. Answering Paragraph 3.22 of the Amended Complaint, Paragraph  
 26 3.22 refers to a written document, a Trustee's Deed. The document itself is the  
 27

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1 best evidence of its contents. To the extent the allegations contained in  
 2 Paragraph 3.22 contradict the writing, they are denied. As to the remainder of  
 3 the allegations, the allegations state legal conclusions to which no response is  
 4 required. To the extent a response is required, the allegations in Paragraph 3.22  
 5 are denied.

6       56. Answering Paragraph 3.23 of the Amended Complaint, Paragraph  
 7 Paragraph 3.23 refers to a written document, a Trustee's Deed, that writing speaks for itself  
 8 and the writing is the best evidence of what is contained therein. To the extent  
 9 the allegations contained in Paragraph 3.23 contradict the writing, they are  
 10 denied. As to the remainder of the allegations, the allegations state legal  
 11 conclusions to which no response is required. To the extent a response is  
 12 required, the allegations in Paragraph 3.23 are denied.

13       57. Answering Paragraph 3.24 of the Amended Complaint, the  
 14 allegations state legal conclusions to which no response is required. To the  
 15 extent a response is required, the allegations in Paragraph 3.24 are denied.

16       58. Answering Paragraph 3.25 of the Amended Complaint, the  
 17 allegations state legal conclusions to which no response is required. To the  
 18 extent a response is required, the allegations in Paragraph 3.25 are denied.

19       59. Answering Paragraph 3.26 of the Amended Complaint, the  
 20 allegations state legal conclusions to which no response is required. To the  
 21 extent a response is required, the allegations in Paragraph 3.26 are denied.

22       60. Answering Paragraph 3.27 of the Amended Complaint, Paragraph  
 23 Paragraph 3.27 refers to a written document, a Trustee's Deed. The document itself is the  
 24 best evidence of its contents. To the extent the allegations contained in  
 25 Paragraph 3.27 contradict the writing, they are denied. As to the remainder of  
 26 the allegations, the allegations state legal conclusions to which no response is  
 27

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1 required. To the extent a response is required, the allegations in Paragraph 3.27  
 2 are denied.

3 **CAUSES OF ACTION<sup>1</sup>**

4 **Second Cause of Action**

5 **Alleged Breach of Duty to Act in Good Faith as a Neutral Third Party  
     Against ReconTrust**

6 61. Answering Paragraph 5.1 of the Amended Complaint, Defendants  
 7 incorporate by reference their answers to each and every preceding paragraph, as  
 8 set forth in full herein.

9 62. Answering Paragraph 5.2 of the Amended Complaint, Defendants  
 10 deny the allegations contained therein.

11 63. Answering Paragraph 5.3 of the Amended Complaint, Defendants  
 12 deny the allegations therein.

14 **Third Cause of Action**

15 **Alleged Negligent and/or Intentional Misrepresentation Against  
     MERS, BACHLS and ReconTrust**

16 64. Answering Paragraph 6.1 of the Amended Complaint, Defendants  
 17 incorporate by reference their answers to each and every preceding paragraph, as  
 18 set forth in full herein.

19 65. Answering Paragraph 6.2 of the Amended Complaint, the  
 20 allegations state conclusions or recitations of law to which no response is

---

22 <sup>1</sup> Defendants do not answer the allegations in Plaintiff's First (Wrongful  
 23 Foreclosure), Sixth (Wrongful Foreclosure), Seventh (Quiet Title), and Eighth  
 24 (Slander of Title) causes of action of the Amended Complaint because these  
 25 allegations were dismissed by the Court in this Court's October 15, 2012 Order  
 26 RE: Motion to Dismiss ("Order"). ECF No. 21 at 9:8-11.  
 27

1 required. To the extent a response is required, the allegations contained in  
2 Paragraph 6.2 are denied.

3       66. Answering Paragraph 6.3 of the Amended Complaint, the  
4 allegations state conclusions or recitations of law to which no response is  
5 required. To the extent a response is required, the allegations in Paragraph 6.3  
6 are denied.

7       67. Answering Paragraph 6.4 of the Amended Complaint, the  
8 allegations state conclusions or recitations of law to which no response is  
9 required. To the extent a response is required, the allegations in Paragraph 6.4  
10 are denied.

11       68. Answering Paragraph 6.5 of the Amended Complaint, the  
12 allegations state conclusions or recitations of law to which no response is  
13 required. To the extent a response is required, the allegations in Paragraph 6.5  
14 are denied.

15       69. Answering Paragraph 6.6 of the Amended Complaint, the  
16 allegations state conclusions or recitations of law to which no response is  
17 required. To the extent a response is required, the allegations in Paragraph 6.6  
18 are denied.

19       70. Answering Paragraph 6.7 of the Amended Complaint, the  
20 allegations state conclusions or recitations of law to which no response is  
21 required. To the extent a response is required, Defendants admit that the  
22 Property was conveyed to Fannie Mae following the Trustee's Sale. Except as  
23 so admitted, the allegations are denied.

24       71. Answering Paragraph 6.8 of the Amended Complaint, Defendants  
25 deny the allegations therein.

26       72. Answering Paragraph 6.9 of the Amended Complaint, Defendants  
27

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1 lack sufficient information to admit or deny the allegations contained therein,  
2 and on that basis, deny the allegations.

3       73. Answering Paragraph 6.10 of the Amended Complaint, Defendants  
4 deny that they made any misrepresentations. By way of further answer, the  
5 allegations state conclusions or recitations of law to which no response is  
6 required. To the extent a response is required, the allegations are denied. As to  
7 the remainder of the allegations, Defendants lack sufficient information to admit  
8 or deny the allegations contained therein, and on that basis, deny the allegations.

9       74. Answering Paragraph 6.11 of the Amended Complaint, Defendants  
10 deny that they made any misrepresentations. As to the remainder of the  
11 allegations, Defendants lack sufficient information to admit or deny the  
12 allegations contained therein, and on that basis, deny the allegations.

13       75. Answering Paragraph 6.12 of the Amended Complaint, Defendants  
14 deny the allegations therein.

15        76. Answering Paragraph 6.13 of the Amended Complaint, Defendants  
16 deny the allegations therein.

17       77. Answering Paragraph 6.14 of the Amended Complaint, Defendants  
18 deny the allegations therein.

19       78. Answering Paragraph 6.15 of the Amended Complaint, Defendants  
20 deny the allegations therein.

#### **Fourth Cause of Action**

## **Alleged Negligent and/or Intentional Misrepresentation Against BACHLS**

23        79. Answering Paragraph 7.1 of the Amended Complaint, Defendants  
24 incorporate by reference their answers to each and every preceding paragraph, as  
25 set forth in full herein.

26 80. Answering Paragraph 7.2 of the Amended Complaint, the

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allegations state conclusions or recitations of law to which no response is required. To the extent a response is required, Defendants deny that they breached any duty of care owed to Plaintiff.

4       81. Answering Paragraph 7.3 of the Amended Complaint, Defendants  
5 admit that Plaintiff communicated with BACHLS regarding a HAMP  
6 application. As to the remaining allegations, Defendants lack sufficient  
7 information to admit or deny the allegations contained therein as presently  
8 phrased, and on that basis, deny the allegations.

9       82. Answering Paragraph 7.4 of the Amended Complaint, Defendants  
0 lack sufficient information to admit or deny the allegations contained therein as  
1 presently phrased, and on that basis, deny the allegations.

12 83. Answering Paragraph 7.5 of the Amended Complaint, Defendants  
13 deny the allegations therein.

14       84. Answering Paragraph 7.6 of the Amended Complaint, the  
15 allegations state conclusions or recitations of law to which no response is  
16 required. To the extent a response is required, Defendants deny Plaintiff is  
17 entitled to damages or any other relief. As to the remaining allegations,  
18 Defendants lack sufficient information to admit or deny the allegations  
19 contained therein, and on that basis, deny the allegations.

## **Fifth Cause of Action**

**Alleged Violation of the Washington State Consumer Protection Act  
(RCW 19.86 et seq.) Against BACHLS, ReconTrust, Fannie Mae, and  
MERS.**

24       85. Answering Paragraph 8.1 of the Amended Complaint, Defendants  
25 incorporate by reference their answers to each and every preceding paragraph, as  
26 set forth in full herein.

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1       86. Answering Paragraph 8.2 of the Amended Complaint, Defendants  
2 deny the allegations therein.

3       87. Answering Paragraph 8.3 of the Amended Complaint, Defendants  
4 deny the allegations therein.

5       88. Answering Paragraph 8.4 of the Amended Complaint, Defendants  
6 deny the allegations therein.

7       89. Answering Paragraph 8.4.1 of the Amended Complaint, the  
8 allegations state conclusions or recitations of law to which no response is  
9 required. To the extent a response is required, the allegations in Paragraph 8.4.1  
10 are denied.

11       90. Answering Paragraph 8.4.2 of the Amended Complaint, the  
12 allegations state conclusions or recitations of law to which no response is  
13 required. To the extent a response is required, the allegations in Paragraph 8.4.2  
14 are denied.

15       91. Answering Paragraph 8.4.3 of the Amended Complaint, Defendants  
16 lack sufficient information to admit or deny the allegations contained in the first  
17 sentence therein as presently phrased, and on that basis, deny the allegations.  
18 Further answering Paragraph 8.4.3, the allegations in the second sentence state  
19 conclusions or recitations of law to which no response is required. To the extent  
20 a response is required, the allegations in Paragraph 8.4.3 are denied.

21       92. Answering Paragraph 8.4.4 of the Amended Complaint, Defendants  
22 deny the allegations therein.

23       93. Answering Paragraph 8.5 of the Amended Complaint, Defendants  
24 deny the allegations therein.

25       94. Answering Paragraph 8.5.1 of the Amended Complaint, the  
26 allegations state conclusions or recitations of law to which no response is  
27

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1 required. To the extent a response is required, the allegations in Paragraph 8.5.1  
2 are denied.

3       95. Answering Paragraph 8.5.2 of the Amended Complaint, the  
4 allegations state conclusions or recitations of law to which no response is  
5 required. To the extent a response is required, the allegations in Paragraph 8.5.2  
6 are denied.

7       96. Answering Paragraph 8.5.3 of the Amended Complaint, Defendants  
8 deny the allegations therein.

9       97. Answering Paragraph 8.6 of the Amended Complaint, the  
10 allegations state conclusions or recitations of law to which no response is  
11 required. To the extent a response is required, the allegations in Paragraph 8.6  
12 are denied.

13       98. Answering Paragraph 8.6.1 of the Amended Complaint, the  
14 allegations state conclusions or recitations of law to which no response is  
15 required. To the extent a response is required, the allegations in Paragraph 8.6.1  
16 are denied.

17       99. Answering Paragraph 8.6.2 of the Amended Complaint, the  
18 allegations state conclusions or recitations of law to which no response is  
19 required. To the extent a response is required, the allegations in Paragraph 8.6.2  
20 are denied.

21       100. Answering Paragraph 8.6.3 of the Amended Complaint, Defendants  
22 deny the allegations therein.

23       101. Answering Paragraph 8.6.4 of the Amended Complaint, the  
24 allegations state conclusions or recitations of law to which no response is  
25 required. To the extent a response is required, the allegations in Paragraph 8.6.4  
26 are denied.

27       **DEFENDANTS' ANSWER TO PLAINTIFF'S  
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1       102. Answering Paragraph 8.7 of the Amended Complaint, the  
2 allegations state conclusions or recitations of law to which no response is  
3 required. To the extent a response is required, the allegations in Paragraph 8.7  
4 are denied

5       103. Answering Paragraph 8.8 of the Amended Complaint, the  
6 allegations state conclusions or recitations of law to which no response is  
7 required. To the extent a response is required, the allegations in Paragraph 8.8  
8 are denied.

9       104. Answering Paragraph 8.9 of the Amended Complaint, the  
10 allegations state conclusions or recitations of law to which no response is  
11 required. To the extent a response is required, the allegations in Paragraph 8.9  
12 are denied.

13       105. Answering Paragraph 8.10 of the Amended Complaint, Paragraph  
14 8.10 refers to a written document, a Notice of Trustee's Sale, which is the best  
15 evidence of its contents. To the extent the allegations contained in Paragraph  
16 8.10 contradict the writing, they are denied. As to the remaining allegations, the  
17 allegations state conclusions or recitations of law to which no response is  
18 required. To the extent a response is required, the allegations in Paragraph 8.10  
19 are denied.

20       106. Answering Paragraph 8.11 of the Amended Complaint, the  
21 allegations state conclusions or recitations of law to which no response is  
22 required. To the extent a response is required, the allegations in Paragraph 8.11  
23 are denied.

24       107. Answering Paragraph 8.12 of the Amended Complaint, Defendants  
25 deny the allegations therein.

26  
27       DEFENDANTS' ANSWER TO PLAINTIFF'S  
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## **PRAYER FOR RELIEF**

108. Defendants deny Plaintiff is entitled to the relief sought, or any other relief.<sup>2</sup>

## **AFFIRMATIVE DEFENSES**

Defendants hereby allege the following separate and distinct defenses and affirmative defenses without conceding that Defendants necessarily bear the burden of proof or persuasion:

## **FIRST AFFIRMATIVE DEFENSE**

### (Failure to State a Claim)

The Amended Complaint, and each claim therein, fails to set forth facts sufficient to state a claim against Defendants.

## **SECOND AFFIRMATIVE DEFENSE**

### (Contribution)

Without admitting any of the allegations in the Amended Complaint, Defendants allege that the injuries and/or damages alleged by Plaintiff were proximately caused by, occurred, and/or were contributed to by Plaintiff's own acts or failures to act.

<sup>2</sup> Plaintiff's Amended Complaint continues to seek relief in the form of quiet title to the Property in conflict with this Court's October 15, 2012 Order. See Order, ECF No. 21, 8:1-18; Compl., ¶¶ 12.1,12.2

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1                   **THIRD AFFIRMATIVE DEFENSE**

2                   (Fault of Plaintiff)

3       If Plaintiff suffered or sustained any loss, injury, damage or detriment, the  
4       same was directly and proximately caused and contributed to by the breach,  
5       conduct, acts, omissions, activities, carelessness, recklessness, negligence,  
6       and/or intentional misconduct of Plaintiff, and not by Defendants.

7

8                   **FOURTH AFFIRMATIVE DEFENSE**

9                   (Lack of Actual Damages)

10      Plaintiff's claim is barred, in whole or in part, because he suffered no  
11     actual damages as a result of the actions alleged in the Complaint.

12

13                   **FIFTH AFFIRMATIVE DEFENSE**

14                   (Damages Unduly Speculative)

15      Plaintiff's claim for damages, if any, is barred because such damages, if  
16     they exist, are uncertain, vague, speculative and/or remote and therefore not  
17     recoverable.

18                   **SIXTH AFFIRMATIVE DEFENSE**

19                   (No Causation)

20      Plaintiff is barred, in whole or in part, from recovering from Defendants  
21     on any of their claims because there is no causal relationship between any injury  
22     alleged to have been suffered, and any act of Defendants.

23

24

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26

27      DEFENDANTS' ANSWER TO PLAINTIFF'S  
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1                   **SEVENTH AFFIRMATIVE DEFENSE**

2                   (Consistent with Law and Applicable Regulations)

3                   The First Amended Complaint and each claim set forth therein are barred  
4 because Defendants' conduct was consistent with all applicable laws and  
5 regulations.

6                   **EIGHTH AFFIRMATIVE DEFENSE**

7                   (Fault of Others)

8                   If Plaintiff suffered or sustained any loss, injury, damage or detriment, the  
9 same was directly and proximately caused and contributed to by the breach,  
10 conduct, acts, omissions, activities, carelessness, recklessness, negligence,  
11 and/or intentional misconduct of others, and not by Defendants.

12                   **NINTH AFFIRMATIVE DEFENSE**

13                   (Good Faith)

14                   Defendants assert as an affirmative defense that Plaintiff's claims are  
15 barred because Defendants' conduct was at all times undertaken in good faith.

16                   **TENTH AFFIRMATIVE DEFENSE**

17                   (Mistake)

18                   Any alleged acts or omissions of Defendants that give rise to Plaintiff's  
19 claims are the result of innocent mistake.

20                   **ELEVENTH AFFIRMATIVE DEFENSE**

21                   (Failure to Mitigate)

22                   Plaintiff's claims are barred, in whole or in part, by the failure to exercise  
23 reasonable care to mitigate his alleged damages, if any.

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1                   **TWELFTH AFFIRMATIVE DEFENSE**

2                   (Statute of Limitations)

3                   Plaintiffs' claims are barred, in whole or in part, by the operation of any  
4 and all applicable statutes of limitation and requirements.

5                   **THIRTEENTH AFFIRMATIVE DEFENSE**

6                   (Business Practices Not Unlawful)

7                   Plaintiff is barred from relief under RCW 19.86 because Defendants'  
8 business practices are not unlawful. Defendants complied with all applicable  
9 statutes and regulations.

10                  **FOURTEENTH AFFIRMATIVE DEFENSE**

11                  (Business Practices Not Unfair)

12                  Plaintiff is barred from relief under RCW 19.86 because Defendants'  
13 business practices are not unfair. The utility of Defendants' practices outweigh  
14 any potential harm and/or the practices do not threaten an incipient violation of  
15 consumer law or violate the policy or spirit of one of those laws in that its  
16 effects are comparable to or the same as a violation of the law.

17                  **FIFTEENTH AFFIRMATIVE DEFENSE**

18                  (Business Practices Not Deceptive)

19                  Plaintiff is barred from relief under RCW 19.86 because Defendants'  
20 business practices are not deceptive. The practices are not likely to deceive, nor  
21 was there actual reliance by Plaintiff.

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27                  DEFENDANTS' ANSWER TO PLAINTIFF'S  
                      FIRST AMENDED COMPLAINT  
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1                   **SIXTEENTH AFFIRMATIVE DEFENSE**

2                   (Reservation of Additional Defenses)

3                   To the extent not set forth herein, Defendants reserve the right to assert  
4 additional defenses that become available or apparent during discovery and to  
5 amend their Answer accordingly.

6

7                   **COUNTERCLAIM**

8                   (Attorneys' Fees)

9                   Pursuant to the Deed of Trust, Defendants are entitled to their attorneys'  
10 fees and costs incurred in defending this action.

11                  WHEREFORE, Defendants pray:

- 12                 1. That Plaintiff takes nothing by way of his Amended Complaint;  
13                 2. That Defendants be awarded their costs of suit incurred herein;  
14                 3. That Defendants be awarded their attorneys' fees;  
15                 4. That judgment be entered in favor of Defendants; and  
16                 5. That Defendants be granted such other relief as the Court deems  
17 just and proper.

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DATED: December 7, 2012

LANE POWELL PC

By /s/John S. Devlin

**John S. Devlin III, WSBA No. 23988  
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Attorneys for Federal National Mortgage Association, ReconTrust Company, N.A., Mortgage Electronic Registration Systems, Inc., and Bank of America, N.A., as successor by merger to Countrywide Bank, FSB and BAC Home Loans Servicing, LP

**DEFENDANTS' ANSWER TO PLAINTIFF'S  
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## **CERTIFICATE OF SERVICE**

I hereby certify that on December 7, 2012, I caused to be served a copy of the foregoing **Defendants' Answer to Plaintiff's First Amended Complaint** on the following person(s) in the manner indicated below at the following address(es):

<b>Plaintiff's Counsel:</b>	
John A. Long, WSBA #15119 John Long Law PLLC 300 NE Gilman Blvd., Suite 100 Issaquah WA 98027 Phone: (425) 427-9660 Fax: (888) 735-6513 E-mail: jal@johnlonglaw.com	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
	by CM/ECF by Electronic Mail by Facsimile Transmission by First Class Mail by Hand Delivery by Overnight Delivery

I declare under penalty of perjury under the laws of the State of Washington  
that the foregoing is true and correct.

Executed on this 7th day of December, 2012, at Seattle, Washington.

Valerie M. Allen

## CERTIFICATE OF SERVICE - 28

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